

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL ACTION NO. 4:09-CR-00192-
	§	ALM-AGD
BEHZAD VIRANI (13)	§	

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Now before the court is the request for revocation of Defendant Behzad Virani's ("Defendant") supervised release. After the District Judge referred the matter to this court for a report and recommendation, the court conducted a hearing on July 22, 2024, to determine whether Defendant violated his supervised release. Defendant was represented by Michael Pannitto of the Federal Public Defender's Office. The Government was represented by Heather Rattan.

Defendant was sentenced on December 10, 2010, before The Honorable Richard A. Schell of the Eastern District of Texas after pleading guilty to the offense of Conspiracy to Manufacture or Distribute or Possess with Intent to Manufacture or Distribute Methamphetamine, a Class A felony. This offense carried a statutory maximum imprisonment term of Life. The guideline imprisonment range, based on a total offense level of 31 and a criminal history category of I, was 120 to 135 months. Defendant was subsequently sentenced to 120 months imprisonment followed by a 5-year term of supervised release subject to the standard conditions of release, plus special conditions to include financial disclosure; substance abuse testing and treatment; obtain a GED, and a \$100 special assessment. Defendant completed his sentence of imprisonment and commenced the term of supervised release on February 2, 2018. The case was reassigned to The Honorable Amos L. Mazzant, III on February 15, 2019 (Dkt. #466 at p. 1, Sealed).

On October 20, 2023, the United States Probation Officer executed a First Amended Petition for Warrant or Summons for Offender Under Supervision (Dkt. #464, Sealed). The Petition asserts that Defendant violated three (3) conditions of supervision, as follows: (1) Mandatory Condition Defendant shall not commit another federal, state, or local crime; (2) Mandatory Condition Defendant shall not unlawfully possess a controlled substance; and (3) Standard Condition Defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician. (Dkt. #464 at pp. 1–3, Sealed).

The Petition alleges that Defendant committed the following acts: (1) & (2) On February 4, 2023, Defendant was arrested by the Grapevine, Texas, Police Department for the following offenses: Possession of a Controlled Substance PG 1/1-B<1G and Possession of Drug Paraphernalia. Defendant was also arrested on the supervised release violation. On February 7, 2023, in the Tarrant County 396th District Court, a Complaint was filed under Docket No. 1766335. On March 17, 2023, the charges were dismissed based on the State's Motion to Dismiss because the lab amount was insufficient for prosecution. According to the offense report, Defendant was pulled over after an officer ran the license plate of Defendant's car and knew it was likely Defendant was driving on a suspended license and had an outstanding supervision warrant. Upon making contact with Defendant, both the suspended license and outstanding warrant were confirmed. Additionally, after receiving consent to search the vehicle, the officer found a small plastic bag with a white powder in it, two digital scales, two cell phones, and several small bags. Defendant was taken into custody. Upon arrival at the department's evidence room, the white powder resulted in positive presumptive results for cocaine, and it weighed 1gram. On November 14, 2022, Defendant was arrested by the Grapevine, Texas, Police Department for the following

offenses: Driving while Intoxicated BAC ≥ 0.15 , a Class A Misdemeanor; Possession of a Dangerous Drug; Manufacture and Deliver PG-B $> 1\text{ g} < 200\text{g}$, a First Degree Felony; Manufacture and Deliver PG2 or 2A $> 4\text{g} < 400\text{g}$, a First Degree Felony; manufacture and Delivery of a Controlled Substance, a Class A Misdemeanor; and Possession of Marijuana 4 ounces > 2 ounces, a Class Misdemeanor. Defendant was booked into custody that night and was released on November 16, 2022, on a \$8,000 bond. On January 26, 2023, in the Tarrant County 396th District Court, a 4 Count Indictment was filed under Docket No. 1755877 as follows: Count 1: Man Del CS PG2 or 2A $\geq 4\text{G} < 400\text{G}$; Count 2 Man Del CS PG2 $\geq 1\text{G} < 4\text{G}$; Count 3: Man Del CS PG2 or 2A $> 4\text{G} < 400\text{G}$; and Count 4: Man Del CS PG2 or 2A $> 4\text{G} < 400\text{G}$. On July 3, 2023, after a guilty plea, Defendant was sentenced to six (6) years imprisonment in the Texas Department of Criminal Justice (TDCJ) on Counts 1–4 to run concurrently. No charges have been filed as to the DWI and the Possession of Marijuana. According to the offense report, on November 14, 2022, Grapevine Police Department officers were dispatched to a location due to a vehicle driving on the curb. Upon making contact with Defendant, the occupant of the vehicle, officers could smell a strong odor of alcohol coming from inside. Defendant's speech was slurred, he had blood shot eyes, he admitted to officers that he had consumed two beers, he admitted he did not believe he could continue driving, and he failed the field sobriety tests. As such, Defendant was placed under arrest for Driving While Intoxicated. When asked if he had anything else on him or in his vehicle, Defendant admitted to having a bag of cocaine in one of his pockets and another bag of pills in his other pocket. Defendant also admitted he had marijuana. A search of Defendant's vehicle revealed the following: multiple pills and four (4) THC vape pens, a large amount of small plastic bags, a scale, and a folded stack of \$2,191 in the center console. All items were tested and it was revealed the substances found inside Defendant's vehicle consisted of the following: 21.9 grams of Adderall,

one (1) Viagra, 2.9 grams of Vicodin, 6.1 grams of Cyclobenzprine, 1.6 grams of Tremedol, 12.7 grams of M-30 pills, which when presumptively tested, yielded a positive result for Fentanyl, 3.3 grams of Xanax, 1.2 grams of Carafate, 0.5 grams of Gabapentin, 1.6 grams of Potassium Chloride, 4.7 grams of MDMA pills, 25 grams total for all ten (10) containers of the Marijuana cigarettes, 53.3 grams of loose Marijuana, four (4) THC vape pens weighing a total of 4 grams, 3.5 grams of Marijuana located in a black jar, 32.5 grams of Psilocybin mushrooms, 9.9 grams of three (3) Gummie boxes, believed to contain Psilocybin, and 10.5 grams of Cocaine; and (3) Defendant consumed alcohol in excess, as evidenced by his blood alcohol content level of 0.222/0.220, administered as a result of the DWI arrest on November 14, 2022. (Dkt. #464 at pp. 1–3, Sealed).

Prior to the Government putting on its case at the final revocation hearing, Defendant entered a plea of true to allegations 1 and 2 in the First Amended Petition. The Government moved to dismiss allegation 3 of the First Amended Petition. Having considered the Petition and the plea of true to allegations 1 and 2, the court finds that Defendant did violate his conditions of supervised release.

Defendant waived his right to allocute before the District Judge and his right to object to the report and recommendation of this court.

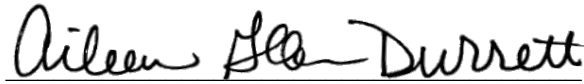
RECOMMENDATION

Pursuant to the Sentencing Reform Act of 1984, the court recommends that Defendant's supervised release be revoked and that he be committed to the custody of the Bureau of Prisons to be imprisoned for an additional term of twenty-four (24) months, to run consecutively with the Tarrant County, Texas sentence, with no term of supervised release to follow.

The court also recommends the Government's motion to dismiss allegation 3 be granted.

The court finally recommends that Defendant be housed in a Bureau of Prisons facility in the Seagoville, Texas area, if appropriate.

SIGNED this 25th day of September, 2024.

A handwritten signature in black ink, reading "Aileen Goldman Durrett". The signature is written in a cursive, flowing style.

AILEEN GOLDMAN DURRETT
UNITED STATES MAGISTRATE JUDGE